*THE HONOURABLE SRI JUSTICE C.V.NAGARJUNA REDDY

+W.P. NO.774 OF 2007

%11.01.2007

#Ch. Srinivasa Rao & another

..Petitioners

Vs.

$The District Collector/Election Authority,
The Co-operative Electric Supply Society Ltd.,
Siricilla, Karimnagar District,

And two others. .
Respondents.

!Counsel for the Petitioners : Sri S.Satyam Reddy

^Counsel for the Respondent Nos.1&2: G.P. for Cooperation

<Gist :

>Head Note:

?Cases Referred:
1. (2001)8 SCC 509
2. 1999 (2) ALT 233

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.774 of 2007

DATED: 11-01-2007

Between:

Ch.Srinivasa Rao
And another

… Petitioners.

And

TheDistrict Collector/Election Authority,
The Cooperative Electric Supply Society Ltd.,
Sircilla, Karimnagar District,

and two others.

… Respondents.

ORDER:

The petitioners who claim to have electricity service connection with the third respondent Society filed this writ petition questioning the election notification dated 4.1.2007 issued by the respondent No.2 as illegal and for consequential direction to include their names in the voters list prepared for the third respondent Society.

After hearing the learned counsel for the petitioners and the learned Government Pleader for Cooperation at the admission stage this writ petition is being disposed of.

The petitioners' case as contended in the affidavit filed in support of the writ petition is that they hold electricity service connection Nos.847 and 890 respectively with the third respondent society; the second respondent issued election notification bearing No.3/2007 dated 4.1.2007 for holding elections for the managing committee of the third respondent society; as per the notification, nominations have to be filed on 11.1.2007 and the election is scheduled to be held on 20.1.2007. As the petitioners intended to contest the elections they verified the voters list prepared for third respondent society and that to their utter surprise their names were not found in the voters list. That

on 6.1.2007 the petitioners made a representation to the third respondent but so far no action has been taken on the said representation. The petitioners also brought the inaction of respondents 2 and 3 to the notice of the first respondent without any fruitful result. The petitioners further allege that the third respondent in collusion with other contestants intentionally deleted their names from the voters list.

The learned counsel appearing for the petitioners while reiterating the averments contained in the affidavit, contended that since the non inclusion of the names of the petitioners in the voters list, despite they being consumers of the third respondent society is liable to be declared as illegal and consequently the petitioners are entitled to a direction to the respondents to include their names in the voters list to enable them to contest in the elections scheduled to be held on 28.1.2007.

The learned Government Pleader for Cooperation submitted that as the election notification was issued on 4.1.2007, any dispute pertaining to the election process can only be raised before the Election Tribunal having jurisdiction under Section 61(3) of the Andhra Pradesh Cooperative Societies Act 1964 (for short 'the Act') and that therefore, the writ petition which is misconceived is liable to be dismissed.

Rule 22 of the Andhra Pradesh Cooperative Societies Rules 1964 (for short 'the Rules') envisaged the whole process of conducting elections to all classes of cooperative societies in the State. The procedure envisaged therein includes various steps such as appointment of Election Officer, publication of list of members eligible to vote, inviting claims or objections from the members to the draft voters list, communication of the final voters list to the Election Officer by the Chief Executive Officer or President of the Society, issuance of

election notice by the Election Officer, fixing the election programme, holding of elections and declaration of result etc. Rule 22 of the Rules is therefore a complete code in itself. It is held in a large number of decisions that every step envisaged in Rule 22 of the Rules forms part of the election process and any dispute relating to any of these steps constitutes a dispute relating to or in connection with an election within the meaning of Section 61(3) of the Act.

In ***Shri Sant Sadguru Janardhan Swamy (Moingiri Maharaj) Sahakari Dugdha Utpadak Samithi VS State of Maharashtra***[1] the Supreme Court, while dealing with the Maharashtra Co-operative Societies Act 1960 and the Rules made thereunder, held that preparation of voters list is an intermediate stage in the process of the election of a specified society and that the election process having been already set in motion the appropriate remedy for the aggrieved party is to move the election tribunal by raising an election dispute. In ***M.A.R.V.S.Sai Baba and Others VS Commissioner and Registrar of Co.op.Societies, Government of A.P., Hyderabad and Others***[2] a Division Bench of this Court held that the issue relating to the validity of the membership of the society including that of wrong admission of a member or non-inclusion of a valid member on the rolls of the Society is an issue to be decided before the election process begins and that once a decision is taken to hold the election and the election process commences by issuance of notification, any dispute in connection with the election, whether it relates to nominations or improper preparation of the electoral rolls or any other aspect pertaining to the elections have to be settled only in an election dispute raised under Section 61(3) of the Act.

As the election process having already begun in this case and in view of the aforementioned authoritative pronouncements, the present

writ petition filed questioning the election notification cannot be entertained. If the petitioners are aggrieved by the omission of their names from the voters list, they have to take recourse to the remedy provided under Section 61(3) of the Act by raising an election dispute, after the completion of the election process and within the period of limitation stipulated under the statute.

Dehors the aforementioned legal ground, the affidavit filed in support of the writ petition is vague and devoid of material particulars. The petitioners failed to mention whether they raised any objection to the draft voters list prepared by the Chief Executive Officer of the third respondent society under Rule 22(1)(iii) of the Rules, without which the petitioners, in my view, cannot dispute the correctness or otherwise of the voters list. This, of course, is only an additional ground to reject the writ petition.

For the aforementioned reasons, the writ petition is without any substance and therefore, the same is dismissed.

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C.V.NAGARJUNA REDDY,J

Dt:11-01-2007.
Mdaa.

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[1] (2001)8 SCC 509

[2] 1999 (2) ALT 233